

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 02-0073P
Gross and Adjusted Gross Income Tax
Short Period 09/01/99 to 12/31/99**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer filed a short period return late and was assessed a penalty. Taxpayer's tax liability was \$27,629.84 of which it remitted \$7,050 timely. Taxpayer remitted the balance after the due date of the return. An extension to file is not an extension for payment and the taxpayer was assessed a late payment penalty.

Taxpayer filed a penalty protest letter dated January 2, 2002.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it timely filed its return on October 16, 2000. Taxpayer requests a penalty waiver that due to the time of acquisition, resources were not in place to accurately remit estimated taxes. As a result, the taxpayer did not remit accurate estimated taxes for the 1999 short period.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence

shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

Taxpayer failed to remit more than seventy percent (70%) of its tax for the short year ended December 31, 1999 and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer’s protest is denied.